

## REMARKS

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested.

Claim 29 is amended. Claims 29-41 are pending.

### Entry of Amendment under 37 C.F.R. § 1.116

The Applicant requests entry of this Rule 116 Response because: the amendments were not earlier presented because the Applicant believed in good faith that the cited references did not disclose the present invention as previously claimed; and the amendment does not significantly alter the scope of the claim and places the application at least into a better form for purposes of appeal.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that “any amendment that would place the case either in condition for allowance or in better form for appeal may be entered.” Moreover, Section 714.13 sets forth that “the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.” The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

#### **I. Rejection under 35 U.S.C. § 102**

In the Office Action, at page 2, claims 29-34 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2004/0016995 to Kuo et al. This rejection is respectfully traversed because Kuo does not discuss or suggest:

electrodes of said MEMS element and wiring patterns of said lid are electrically connected at a bonded part of said substrate and said lid, and

a sealing portion is provided between said MEMS element and said lid immediately surrounding and adjacent to an outside of said bonded part,

as recited in amended independent claim 29.

Kuo shows a bonded part to the left and right of bonded part 510. Kuo does not discuss or suggest that the bonded part shown to the left and right of element 510 is a sealing portion that immediately surrounds and is adjacent to the outside of the bonded part 510. The bonded part shown to the left and right of the bonded part 510 is located at an outside of the bonded part

510, but does not surround the bonded part 510, does not immediately surround the bonded part 510, and is not adjacent to the bonded part 510.

Therefore, as Kuo does not discuss or suggest that "electrodes of said MEMS element and wiring patterns of said lid are electrically connected at a bonded part of said substrate and said lid, and a sealing portion is provided between said MEMS element and said lid immediately surrounding and adjacent to an outside of said bonded part," as recited in amended independent claim 29, claim 29 patentably distinguishes over the reference relied upon. Accordingly, withdrawal of the § 102(e) rejection is respectfully requested.

Claims 30-34 depend either directly or indirectly from independent claim 29 and include all the features of claim 29, plus additional features that are not discussed or suggested by the reference relied upon. For example, claim 31 recites "in which said substrate and/or said lid further have a cavity at the side of said operating space." Therefore, claims 30-34 patentably distinguishes over the reference relied upon for at least the reasons noted above. Accordingly, withdrawal of the § 102(e) rejection is respectfully requested.

#### Conclusion

In accordance with the foregoing, claim 29 has been amended. Claims 29-41 are pending and under consideration.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,  
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Date: May 28, 2008

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